

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

FRANCES J. BELISLE AND PIERRE
BELISLE,

Plaintiffs,

v.

Case No. CL18000941-00

ANGELA BAXTER, MICHAEL
WHITTINGTON, LAWRENCE COSTELLO
AND DONALD R. KYLES,

Defendants.

DEMURRER

Defendants Laura Baxter, wrongly identified as Angela Baxter, Michael Whittington and Lawrence Costello, by counsel, pursuant to Section 8.01-273 of the *Code of Virginia*, hereby file this Demurrer to the Complaint filed by Plaintiffs Frances Belisle and Pierre Belisle on the following grounds:

1. The Complaint does not state a claim and does not allege facts upon which relief may be granted.

2. Plaintiffs have not alleged sufficient facts to state a claim upon which relief can be granted. Specifically:

a. In Count I, Frances Belisle has not alleged sufficient facts to state a claim for malicious prosecution under 42 U.S.C. §1983 in violation of the Fourth and Fourteenth Amendment or Virginia law against Baxter or Whittington. The Complaint does not allege facts to support the conclusory allegations that Plaintiff was seized by Baxter or Whittington pursuant to legal process that was not supported by probable cause and that the criminal proceedings terminated in Plaintiff's favor.

**EXHIBIT
B**

b. In Count II, Frances Belisle has not alleged sufficient facts to state a claim for malicious prosecution under Virginia law against Baxter or Whittington. The factual allegations do not support the conclusory assertion that Plaintiff's prosecution was malicious, instituted by or with the cooperation of Baxter or Whittington, without probable cause, or that it terminated in a manner not unfavorable to the Plaintiff.

c. In Count III, Frances Belisle has not alleged sufficient facts to state a claim for false imprisonment under Virginia law against Baxter or Whittington.

d. In Count IV, Frances Belisle has not alleged sufficient facts to state a claim for defamation under Virginia law, and any such claim is barred by the statute of limitations. Moreover, the Complaint does not allege the purported defamatory statements *in haec verba*, nor are the alleged statements defamatory. Further, the alleged defamatory communications are privileged.

e. In Count V, Frances Belisle has not alleged sufficient facts to state a claim for violation of Virginia Code §8.01-45.

f. In Count VI, Pierre Belisle has not alleged sufficient facts to state a claim for malicious prosecution under Virginia law against Costello. The factual allegations do not support the conclusory assertion that Plaintiff's prosecution was malicious, instituted by or with the cooperation of Costello, without probable cause, or that it terminated in a manner not unfavorable to the Plaintiff.

g. In Count VII, Frances and Pierre Belisle have not alleged sufficient facts to state a claim for defamation under Virginia law against Costello. Moreover, the Complaint does not allege the purported defamatory statements *in haec verba*, nor are the

alleged statements defamatory. Further, the alleged defamatory communications are privileged.

h. In Count VIII, Pierre Belisle has not alleged sufficient facts to state a claim for violation of Virginia Code §8.01-45 against Costello. Moreover, Costello is entitled to absolute privilege as to Plaintiff's claims.

i. Plaintiffs failed to allege sufficient facts to support an award of punitive damages under the laws of Virginia.

3. Even if Plaintiffs stated valid causes of action under the laws of Virginia, any such causes of action barred by good faith immunity and sovereign immunity.

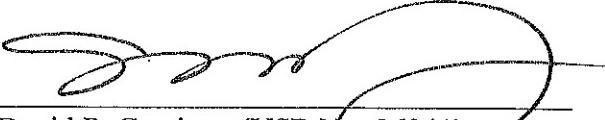
4. Frances Belisle's claim under 42 U.S.C. § 1983 in Count I is barred by the doctrine of qualified immunity.

5. The undersigned Defendants will file a Brief in Support of this Demurrer which is hereby incorporated as if fully set forth herein.

WHEREFORE, Defendants Laura Baxter, Michael Whittington and Lawrence Costello, by counsel, respectfully requests that the Court enter an Order sustaining their Demurrer and dismissing all claims asserted against them with prejudice.

**LAURA BAXTER, MICHAEL
WHITTINGTON AND LAWRENCE
COSTELLO**

By Counsel



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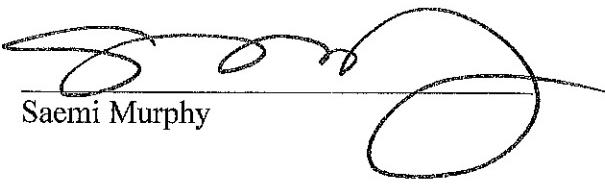
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C E R T I F I C A T E

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